

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

27344

FILE: B-214123**DATE:** February 7, 1984

MATTER OF: American Federation of Government
Employees, Local 1662

DIGEST:

Determination under Office of Management and Budget Circular No. A-76 to contract out for services in lieu of performance by government employees is a matter of executive policy not reviewable in bid protest filed by union representing federal employees.

American Federation of Government Employees, Local 1662, protests the Army's decision to contract out for laundry and drycleaning services at Fort Huachuca, Arizona, under solicitation No. DAEA18-83-R-0016.

The protest involves a decision made in accordance with Office of Management and Budget (OMB) Circular No. A-76. Our Office has repeatedly declined to render decisions concerning the propriety of an agency's determination under OMB circular No. A-76 to contract out instead of performing work in-house. These determinations are regarded as beyond the scope of our bid protest decision function because the provisions are matters of executive branch policy which do not create legal rights or responsibilities. See Local F76, International Association of Firefighters, B-194084, March 28, 1979, 79-1 CPD 209.

In Crown Laundry and Dry Cleaners, Inc., B-194505, July 18, 1979, 79-2 CPD 38, we indicated that we would consider it detrimental to the competitive system for the government to decide to award or not award a contract based on a cost comparison analysis that did not conform to the terms of the solicitation under which bids were submitted. For that reason, we do entertain protests which allege a faulty or misleading cost comparison of the in-house estimate with the bids received. See Serv-Air, Inc.; AVCO, 60 Comp. Gen. 44 (1980), 80-2 CPD 317. In those cases, however, our review is intended to protect parties that competed from the arbitrary rejection of their bids and does not extend to nonbidders such as the federal employees or taxpayers. Locals 1857 and 987, American Federation of Government Employees, B-195733; B-196117, February 4, 1980, 80-1 CPD 89.

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The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel